

# EXHIBIT 31

1 Volume I

Pages: 1 - 242

2 Exhibits: 1 - 27

3 UNITED STATES DISTRICT COURT

4 DISTRICT OF MASSACHUSETTS

5 No. 04-CV-11948-RGS

6 SEYED MOHSEN HOSSEINI-SEDEHY,

7 Plaintiff

8 vs.

9 ERIN T. WITHINGTON and the CITY

10 OF BOSTON,

11 Defendants

12  
13 DEPOSITION OF ERIN T. WITHINGTON

14 Thursday, March 31, 2005

15 10:00 a.m. - 4:32 p.m.

16 SMITH & DUGGAN LLP

17 55 Old Bedford Road

18 Lincoln, Massachusetts 01773-1125

19  
20  
21  
22 FARMER ARSENAULT BROCK LLC

23 617.790.4404 FAX 617.728.4403

24 Reporter: Cynthia C. Henderson/RPR

Erin T. Withington - March 31, 2005

<p style="text-align: right;">174</p> <p>1 identification.)</p> <p>2 <b>Q. Do you recognize what Exhibit 18 is?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. What is that?</b></p> <p>5 A. It is my application for a warrant.</p> <p>6 <b>Q. And did you indicate that you typed out</b></p> <p>7 <b>this application for complaint while you were at the</b></p> <p>8 <b>Sexual Assault Unit?</b></p> <p>9 A. Yes.</p> <p>10 <b>Q. And what was the date of offense that you</b></p> <p>11 <b>represented to the court of this indecent assault</b></p> <p>12 <b>and battery over fourteen years of age?</b></p> <p>13 A. 12/22/03.</p> <p>14 <b>Q. And there is a typed date underneath that</b></p> <p>15 <b>handwritten date of 12/22/03. Do you see that?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. Who typed that in?</b></p> <p>18 A. I did.</p> <p>19 <b>Q. Why did you type 2/29/04 in the date of</b></p> <p>20 <b>offense for the indecent assault and battery for</b></p> <p>21 <b>over fourteen years of age?</b></p> <p>22 A. I think I must have made a mistake, and</p> <p>23 that's why I crossed it out, because I know that</p> <p>24 that's one of the dates was February 29th.</p>	<p style="text-align: right;">176</p> <p>1 <b>Q. And is that your signature on the signature</b></p> <p>2 <b>of complainant?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. And at the bottom there is some</b></p> <p>5 <b>handwriting. I think it's five lines. Is that your</b></p> <p>6 <b>handwriting?</b></p> <p>7 A. No.</p> <p>8 <b>Q. Whose handwriting is it?</b></p> <p>9 A. Clerk magistrate.</p> <p>10 <b>Q. And what does that handwriting say?</b></p> <p>11 A. "March 22, 2004, Detective Schroeder</p> <p>12 appeared, testified, allowed warrant to issue. Mark</p> <p>13 Concannon, Assistant Clerk, Number 2 and 3 denied."</p> <p>14 <b>Q. Would it be fair to say, if I can recall</b></p> <p>15 <b>your testimony, did you testify that the reason why</b></p> <p>16 <b>you were seeking a warrant for Mr. Hosseini was in</b></p> <p>17 <b>essence Counts 2 and 3?</b></p> <p>18 A. No. All three counts.</p> <p>19 <b>Q. But the reason why you decided to seek the</b></p> <p>20 <b>arrest warrant on March 22nd, 2004 was not because</b></p> <p>21 <b>of this past indecent assault and battery over</b></p> <p>22 <b>fourteen years of age, which was count number one;</b></p> <p>23 <b>correct?</b></p> <p>24 A. Yes.</p>
<p style="text-align: right;">175</p> <p>1 <b>Q. And you sought a warrant for the arrest of</b></p> <p>2 <b>Mr. Hosseini for the offense of indecent assault and</b></p> <p>3 <b>battery on a person over fourteen years of age and a</b></p> <p>4 <b>second count of assault and battery; is that</b></p> <p>5 <b>correct?</b></p> <p>6 A. Yes.</p> <p>7 <b>Q. And in the other remarks that you typed in</b></p> <p>8 <b>for the application and complaint, what did you type</b></p> <p>9 <b>in?</b></p> <p>10 A. "Above suspect did touch the victim's</p> <p>11 buttocks and rubbed his covered crotch against the</p> <p>12 suspect on one occasion on Sunday, February 29,</p> <p>13 2004, and March 22nd, 2004, did rub the victim's</p> <p>14 arms and shoulders after being asked not to touch</p> <p>15 him by the victim."</p> <p>16 <b>Q. Why did you put in the application for</b></p> <p>17 <b>complaint that the date of offense was December</b></p> <p>18 <b>22nd, 2003?</b></p> <p>19 A. That was the time that I met with</p> <p>20 Mr. Bavis.</p> <p>21 <b>Q. Did you put that date of offense in the</b></p> <p>22 <b>application for complaint, 12/22/2003, knowing that</b></p> <p>23 <b>the date of offense was not 12/22/2003?</b></p> <p>24 A. Yes.</p>	<p style="text-align: right;">177</p> <p>1 <b>Q. The reason why you decided to reapply for</b></p> <p>2 <b>an arrest warrant as opposed to just letting the</b></p> <p>3 <b>D.A. handle it was because of the offense of assault</b></p> <p>4 <b>and battery that you put down here as offenses two</b></p> <p>5 <b>and three?</b></p> <p>6 A. It continued, yes.</p> <p>7 <b>Q. And the clerk denied, the court denied your</b></p> <p>8 <b>application for a complaint and a warrant for those</b></p> <p>9 <b>two assault and battery complaints; correct?</b></p> <p>10 A. He denied those two complaints, not the</p> <p>11 warrant.</p> <p>12 <b>Q. Right. He denied the two complaints for</b></p> <p>13 <b>assault and battery?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. And when you appeared before that, the</b></p> <p>16 <b>court there, were you sworn in?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. And under oath did you swear to these other</b></p> <p>19 <b>remarks that you had written in there?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. And you did so without knowing whether or</b></p> <p>22 <b>not Bavis was even working on Sunday, February 29,</b></p> <p>23 <b>2004; correct?</b></p> <p>24 A. Yes.</p>

<input type="checkbox"/> ARREST		<input type="checkbox"/> HEARING		<input type="checkbox"/> SUMMONS		<input checked="" type="checkbox"/> WARRANT	
The within named complainant requests that a complaint be filed against the within named defendant, charging said defendant with the offense(s) listed below.							
DATE OF APPLICATION 3/22/2004		DATE OF OFFENSE 12/22/03 2/29/2004		PLACE OF OFFENSE 900 Boylston Street, Boston			
NAME, ADDRESS AND ZIP CODE OF COMPLAINANT Detective Erin Schroeder 91 East Concord Street Boston, MA 02118				NO.		OFFENSE	
				1		Indecent Assault & Battery over 14 y.o. 265; 0134	
				2		Assault & Battery DENIED	
				3		Assault & Battery DENIED	
				4			
NAME, ADDRESS AND ZIP CODE OF DEFENDANT Mohsen Hosseini 106 13th Street #120 Charlestown, MA				G.L. Ch. and Sec.		265/13H	

**DEFENDANT IDENTIFICATION INFORMATION** — Complete data below if known.

C.C. # 040143112	DATE OF BIRTH 10/11/61	SEX M	RACE O	HEIGHT 5'9	WEIGHT 160	EYES Bro	HAIR Blk	SOCIAL SECURITY NUMBER
COURT USE ONLY →	A hearing upon this complaint application will be held at the Boston Municipal Court, Rm. 411 on						COURT USE ← ONLY	

**CASE PARTICULARS — BE SPECIFIC**

NO.	NAME OF VICTIM Owner of property, person assaulted, etc.	DESCRIPTION OF PROPERTY Goods stolen, what destroyed, etc.	VALUE OF PROPERTY Over or under \$100.	TYPE OF CONTROLLED SUBSTANCE OR WEAPON Marijuana, gun, etc.
1	Victim Known to Commonwealth 47 y.o Male			
2				
3				
4				

OTHER REMARKS: Above suspect did touch the victim's buttocks and rub his covered crotch against the suspect on 1 occasion in 2003 and on Sunday February 29, 2004 and Monday March 22, 2004 did rub the victim's arms and shoulders after being asked not to touch him by the victim.

*Erin Schroeder*  
SIGNATURE OF COMPLAINANT

IF PROCESS IS ORDERED, THIS APPLICATION MUST BE PRESENTED AT ONCE TO PLEADING CLERK AT ROOM 411

NAMES OF WITNESSES	Recog. to S.C.	Give place of business or employment, if in Boston, otherwise, residence	ST. NO.
		MARCH 22, 2004 only	
		DET SCHROEDER, APPROX	
		TESTIMES ALLOWED	
		WARRANT TO ISSUE	
		MARK T LUCASO	213



State if defendant is arrested \_\_\_\_\_ Date of Arrest APRIL 2004 DENIED